Byrd, 6 Ind. 475; *Billingsley* v. *Dean,* 11 Ind. 331; *Vette* v. *LaBarge,* 2 Mo. App. 906; *Mallon* v. *Stevens,* 6 Oh. Dec. 1042; *Battery Park* v. *Loughram,* 122 N. C. 668, 30 S. E. 17. But the principal sum does not become due *ipse facto* on such default. *Belloc* v. *Davis,* 38 Cal. 242; *Trinity Bank* v. *Haas,* 151 Cal. 556, 91 Pac. 385. The holder of a note or mortgage, before commencing suit, need not give notice to the defaulting maker of his election to declare the principal due for non-payment of interest. *Hewitt* v. *Dean,* 91 Cal. 5, 27 Pac. 423; *Clemens* v. *Luce,* 101 Cal. 432, 35 Pac. 1032. Commencement of an action would be notice of the exercise of the option. *Bank of Commerce* v. *Scofield,* 126 Cal. 156, 58 Pac. 451. The instant case recognizes this doctrine that notice *as such* is not an essential: but it decides that where the holder uses the method of notice to show his election, then notice is the only manifestation of that election, and must *reach* the defaulting maker before the latter has made good the default. Notifying an attorney of the intent to elect is not a sufficient manifestation, for the maker may rely on a waiver of the right on the default until he hears to the contrary. *Wall* v. *Marsh,* 68 Tenn. 438; *Adams* v. *Rutherford,* 13 Or. 78, 8 Pac. 896. The two doctrines thus make the distinction that where the maker is in default the holder may sue for the principal sum without further notice to the maker; but that if the holder refrains from suit until the maker is to be notified, then he may waive his right by failure to notify before he receives the interest money. The case seems sustained by *Trinity Bank* v. *Haas,* supra.

BILLS AND NOTES—GAMING OBLIGATIONS AFFECTING RIGHTS OF ACCOMMODATION INDORSER.—McDannald gave his note to the Citizen's Bank, and received a loan of $1,200, which he used for the purpose of stock gambling. Carpenter was an accommodation indorser on the note, and knew the purpose of the loan. The bank did not know this purpose. The Virginia Code, § 2836, declared void every contract where money is knowingly lent to be used in wagering. The note was protested for non-payment and the bank brought an attachment proceeding in equity, for the benefit of Carpenter, to subject an interest of McDannald in real estate to the payment of the debt. *Held,* in favor of the bank, irrespective of Carpenter's knowledge of the gambling. *Citizens National Bank* v. *McDannald* (Va. 1914), 83 S. E. 389.

Where a note is made entirely void, by statute, even a holder in due course cannot recover upon it. See comment in 12 MICH. L. REV. 408. The Virginia Code declares the note void only where the person lending the money knew the use to which it would be put. So the note in the instant case was undoubtedly valid in the hands of the Bank, which was a holder in due course. The purchaser of a note from the holder in due course secures it free from equities, even though he had knowledge of such equities. *Aragon Coffee Co.* v. *Rogers,* 105 Va. 51; *Black* v. *Bank,* 96 Md. 399, 54 Atl. 88; *Symonds* v. *Riley,* 188 Mass. 470; *Hillard* v. *Taylor,* 114 La. 883. But if the purchaser was a party to the fraud or illegal act in the first instance, then he is not protected. *Battersbee* v. *Calkins,* 128 Mich. 569, 87 N. W. 760; *Booher* v. *Allen,* 153 Mo. 613, 55 S. W. 238; *Hoye* v. *Kalashian,* 22 R. I. 101, 46 Atl. 271; *Andrews* v. *Robertson,* 111 Wis. 334, 87 N. W. 190. This is true

even where the holder in due course disposes of the note to an agent of the party to the fraud. The court in the instant case decided correctly, relying on these principles; for the bank is properly in equity. Nevertheless, the indirect result accomplished is to benefit the indorser who became such merely to accommodate McDannald in securing money for stock gambling. The logical basis probably is that the knowledge of Carpenter did not affect the validity of the note, as he did not directly secure the lending of the money.

BREACH OF MARRIAGE PROMISE—WHAT CONSTITUTES A WAIVER.—Defendant agreed to marry the plaintiff on a certain day but failed to appear at the time set; afterwards he wrote a letter giving excuses. The parties continued a correspondence in regard to setting a new date but seemed unable to agree on any time and finally all efforts ceased and the plaintiff commenced suit. *Held,* that the plaintiff by her efforts to arrange another date had waived the breach and her right of action. *Falk* v. *Burke,* (Kans. 1914), 143 Pac. 498.

This rule was first established in *Kelley* v. *Renfro,* 9 Ala. 325, where the court said that "omission to marry on a particular day is not a breach" of the contract, but that the contract continues until one party or the other evinces an unwillingness to proceed." In that case it was held that mere silence did evince sufficient unwillingness. The Kansas court, while saying that they follow the Alabama case, seem to hold that an omission to appear on the day fixed is enough unless qualified by further acts, and then say that the facts in this case do amount to a waiver. This seems to be a better doctrine as there is no doubt that by failing to appear at a time set a party to a marriage contract does break the contract. *Wanecek* v. *Kratky,* 69 Neb. 770; *Wolters* v. *Schultz,* 21 N. Y. Supp. 768; *Lohner* v. *Caldwell,* 15 Tex. Civ. App. 444. The Alabama case and the principal case seem to be the only ones where the question of a waiver of the breach arose and the instant case the only one which has decided what constitutes such waiver; whether other courts would hold these facts sufficient to indicate a waiver is open to question.

CARRIERS—INTERSTATE COMMERCE ACT.—The plaintiff railway company had duly filed with the Interstate Commerce Commission its carriage charges for dressed meats, exclusive of icing charges. It had further filed with the Commission a tariff sheet which provided that it would upon request furnish refrigeration, charging therefor the actual cost, including labor, but not less than $2.50 per ton of 2,000 pounds. These services were performed for it by Swift & Co., competitors of the defendant packing company. The railway company sues the packing company for such refrigerating charges on the basis of $2.50 per ton. On appeal from a decision in favor of plaintiff, *held* that defendant was liable. *Cudahy Packing Co.* v. *Grand Trunk Western Ry., Co.,* (C. C. A. 7th Circuit, 1914), 215 Fed. 93.

An amendment to the Interstate Commerce Act defines transportation so as to include all services in connection with the refrigerating of the property transported, 34 U. S. Stat. p. 584. A carrier has the right to make sepa-